IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWELFTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE Ch.S.R.K. PRASAD

WRIT PETITION NO : 9546 of 2004

Between:

Ilyas Hussain, s/o Anwar Hussain,
R/o 3-5-786/38, King Koti, Shergate, Hyderabad.

..... PETITIONER

AND

1 The Commissioner of Police, Hyderabad City.
2 The Government of Andhra Pradesh, represented by its Chief

Secretary.
3 The Superintendent, Central Prison, Chanchalguda,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying to issue a writ of Habeas Corpus directing the respondents to produce Mohd.Idris alias Idris Hussain, s/o Mohd.Anwar alias Anwar Hussain, now detained in Central Prison, Hyderabad, before this Hon'ble Court and he may be released forthwith after declaring that his detention is illegal and void.

Counsel for the Petitioner : MR.C.PRAVEEN KUMAR.

Counsel for the Respondents : THE ADVOCATE GENERAL

The Court made the following order :(Per Hon'ble TMK,J)

This Writ Petition is filed questioning the detention order dated 8.3.2004 passed by the first respondent, and seeking a direction to the respondents to produce Mohd.Idris alias Idris Hussain (detenu) S/o.Mohd.Anwar alias Anwar Hussain, now detained in Central Prison, Hyderabad, before this Court, and to release him forthwith after declaring his detention as illegal and void.

It is the case of the petitioner, who is the brother of the detenu, that by an order dated 8.3.2004 made under Section 3 (2) of the Andhra Pradesh Prevention of Dangerous Activities of Boot Leggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short "the Act"), the detenu was ordered to be detained with a view to prevent him from acting in any manner prejudicial to the maintenance of public order, as he is a "*goonda*", defined under the Act.

The learned senior counsel appearing for the petitioner contended that the order of detention was passed basing on the cases in Crime No.4 of 2002 of Abid Road P.S., registered under Section 324 read with 34 of IPC, Crime No.766 of 2003 of Narayanaguda P.S., registered under Section 324 of IPC, Crime No.86 of 2000 of Narayanaguda P.S., registered under Sections 506, 323 read with 34 of IPC, and Crime No.129 of 2002 of Narayanaguda P.S., registered under Sections 448 and 506 of IPC. He further submitted that mainly basing on the recent incident in Crime No.742 of 2003 of Chikkadapally P.S., which occurred on 23.12.2003 at Chikkadapally Toddy Compound, where the detenu beat one Ahmed Amri with a stick causing grievous injuries, the order of detention was passed, and that in the said case, the detenu was released on bail on 12.01.2004. He further submitted that the cases in Crime No.86 of 2002 of P.S.Narayanaguda and Crime No.766 of 2003 of P.S.Narayanaguda were ended in compromise before the Lok Adalat on 25.3.2003 and 31.1.2004 respectively, and even then, the first respondent basing on the said cases passed the detention order.

The first respondent filed the counter stating that after considering the material, including the rowdy sheet opened against the detenu on 22.7.2002, and FIR in Crime No.742 of 2003 of P.S.Chikkadapally, he passed the order of detention. It is also stated that the rowdy sheet was opened against the detenu, basing on four criminal cases, including a petty case, pending against him. It is further stated that as the behaviour of the detenu was not changed even after opening a rowdy sheet, the rowdy sheet was not closed and is continuing, and to maintain the public order, the first respondent invoked the provisions of the Act against the detenu and passed the order of detention.

We have gone through the entire material placed by both the parties. Crime No.86 of 2000 mentioned in the rowdy sheet, has already been compromised before the Lok Adalat on 25.03.2003, and the other cases mentioned in the rowdy sheet are still pending before appropriate Courts. Similarly, Crime No.766 of 2003 has also been compromised before the Lok Adalat on 31.1.2004. Except the incidents committed in the year 2000 and 2002, and also the incident, which occurred on 23.12.2003 in Crime No.742 of 2003, there is no other material placed before this Court to show that the detenu is an habitual offender and he has committed number of offences in the year 2003.

Under the above circumstances and in view of the fact that the detaining authority relied only on one crime that took place in the year 2003 while passing the detention order and in the absence of any other material to show that the detenu is an habitual offender, we are of the opinion that the detention order can be quashed. Accordingly, we quash the detention order dated 8.03.2004, and direct the respondents to release the detenu forthwith, if he is not required in any other case. However, it is made clear that this order will not stand in the way of the respondents to proceed against the detenu, if any other cases are pending against him, as per law.

The Writ Petition is accordingly allowed.

(T.MEENA KUMARI, J)

(CH.S.R.K.PRASAD, J)

12TH JULY, 2004.

Pan/lvl

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Monday, the twelfth day of July, two thousand and four.

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Commissioner of Police, Hyderabad City.
2. The Chief Secretary, Government of Andhra Pradesh,

Hyderabad..

3. The Superintendent, Central Prison, Chanchalguda,
   Hyderabad.

4. Two C.Cs. to Advocate General, High Court buildings,

Hyderabad. (OUT)

5. Two C.D. copies